

HOUSE BILL 170
By Turner M

AN ACT to amend Tennessee Code Annotated, Title 43 and Title 62, relative to the use of pesticides in Tennessee.

WHEREAS, the state of Tennessee is blessed with a bounty of natural resources; and
WHEREAS, farming is a noble and vital profession within the state of Tennessee; and
WHEREAS, an important part of modern farming is the use of pesticides; and
WHEREAS, in recognition of the potential threat to human life and health that any misapplication of pesticides may precipitate; and

WHEREAS, the general assembly is equally concerned with protecting the livelihood of farming, the health of farmers and the health of members of the rural general public; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and cited as the "Tennessee Commercial Aerial and Ground Spraying Protection Act of 2005".

SECTION 2. Tennessee Code Annotated, Section 43-8-301, is amended by designating the existing language as subsection (a) and by adding the following language to be designated as subsection (b):

(b) It is the intent of the general assembly by enacting this act to ensure that farming with insecticides, fungicides and rodenticides is done in a safe manner without unnecessary threat to human life and health. This act should be interpreted to further that end.

SECTION 3. Tennessee Code Annotated, Section 43-8-314(c), is amended by deleting the subsection in its entirety, and by substituting instead the following language:

(c)

(1) It shall be unlawful for any commercial agricultural ground or aerial pesticide applicator to apply pesticides within one hundred feet (100') (no deposit zone) of any place where there is substantial routine human activity, including, but not limited to, residences, schools and similar structures.

(2) It shall be unlawful for any commercial aerial applicator to apply pesticides in a one thousand two hundred foot (1,200') buffer zone beyond the no deposit zone. Only ground application shall be lawful within one thousand two hundred feet (1,200') of the no deposit zone. Such locations include, but are not limited to, residences, schools and similar structures. It shall be unlawful for any commercial aerial applicator to apply pesticide within twenty-five feet (25') of a right-of-way of a public road.

SECTION 4. Tennessee Code Annotated, Section 43-8-312, is amended by designating the existing language as subsection (a) and by adding the following language as new subsections as follows:

(b) Commercial aerial applicators shall notify, in the area where agricultural aerial application of pesticides is to be done, and as far in advance as possible all beekeepers, organic farms and those individuals in the registry of pesticide-sensitive persons. The materials having the least toxic qualities to honeybees shall be used whenever possible.

(c) The department shall make public via public service announcements on local broadcast or print media a toll-free hotline for persons to report improper chemical application and to determine the local aerial spraying schedule. Such public notification

of the hotline shall be made at least twice monthly over the course of the local spraying season.

(d) Notification, as required in subsections (a) or (b), may be made by telephone, by mail, in person or by hand delivery. Notification must also include information on the type of pesticide to be used.

(e) Notice of any commercial aerial application of pesticides must be posted by the person or party contracting aerial application on a seasonal basis. Such notice is required at least twenty-four (24) hours prior to the first application of pesticides until the reentry period established by federal or state law for pesticides has lapsed for the last pesticides used. Alternatively, notice may be placed on an application-specific basis from the date of the application. Each sign shall be at least eight and one-half inches (8.5") by eleven inches (11") and shall state in English (and if there is a significant non-English speaking workforce population, the signs should also be in that language as well): "WARNING – AREA TREATED BY AIRCRAFT WITH PESTICIDES – DO NOT ENTER". The postings shall be placed at normal points of access and at one-quarter (1/4) mile intervals along those borders of an outdoor application site that lie within five hundred feet (500') of any place where there is substantial routine human activity, including, but not limited to, residences, schools and similar structures, except for public roads.

SECTION 5. Tennessee Code Annotated, Title 43, Chapter 8, Part 3, is amended by adding the following as new sections as follows:

43-8-315.

The department shall maintain a current registry of pesticide-sensitive persons and all certified organic farms. Upon request, the department shall register any person who pays annually a twenty-five dollar (\$25.00) registration fee and submits certification

from a physician stating the persons' sensitivity, organic farm certification or beekeeper status. The department shall notify all licensees quarterly, or more often if necessary, of the name, address and telephone number of those persons registered as beekeepers, organic farmers and pesticide sensitive with the department.

43-8-316.

(a) The following persons shall maintain records of pesticide use:

- (1) Any person who uses a pesticide for an agricultural use;
- (2) Any person who uses a pesticide registered pursuant to 43-8-104;
- (3) Any person engaged for hire in the business of pest control;
- (4) Any person who uses a pesticide for industrial post-harvest

commodity treatment; and

(5) Any person who uses a pesticide registered pursuant to 43-8-104 for any outdoor institution or outdoor industrial use.

(b) The records shall include the following information for each pest control operation:

- (1) Date of application;
- (2) Name of the operator of the property treated;
- (3) Location of property treated;
- (4) Crop commodity or site treated;
- (5) Total acreage or units treated at the site; and
- (6) Pesticide, including the United States environmental protection agency or state registration number which is on the pesticide label, and amount used.

(c) In addition to the information required in subsection (b), the operator of the property which is producing an agricultural commodity, and an agricultural pest control

business applying pesticides to such property, shall include in the records the following information for each pest control operation:

- (1) Location of the property treated, by county, section, township, range, base and meridian;
- (2) Hour the treatment was completed;
- (3) The operator identification number issued to the operator of the property treated;
- (4) The site identification number issued to the operator of the property treated;
- (5) Total acreage (planted) or units at the site; and
- (6) Name or identity of the person who made and supervised the application, if the pesticide application was made by an agricultural pest control business.

(d) The operator of the property which is producing an agricultural commodity shall maintain records of pesticides applied by an agricultural pest control business to such property, by site.

(e) In addition to the information required in (b), persons engaged for hire in the business of pest control at a school site shall include in the records the following information for each pest control operation:

- (1) Time application was completed;
- (2) Name and address of the school site; and
- (3) Application location at the school site. For purposes of this subsection, location includes, but is not limited to, classrooms, playgrounds, cafeteria, vehicles and athletic fields.

(f) The records required pursuant to this section shall be retained for two (2) years and made promptly available to the commissioner upon request.

43-8-317.

(a) Persons required to maintain pesticide use records pursuant to § 43-8-316 shall report a summary of the monthly use of pesticides to the department. The report shall be provided to the commissioner by the tenth day of the month following the month in which the work was performed. If the report is mailed, the postmark shall be the date of delivery.

(b) The report shall be in a format approved by the commissioner. The report shall include the following:

(1) The name and address of the person who or business or organization which applied the pesticide or pesticides;

(2) County where the pest control was performed;

(3) Month and year of pesticide use;

(4) Crop, commodity or site treated, except when using a designated use code, as specified on the monthly summary pesticide use report form;

(5) Pesticide, including environmental protection agency or state registration number which is on the pesticide label, and the amount used;

(6) Number of applications made with each pesticide and the total number of applications made during the month; and

(7) Total acres or units treated with each pesticide, except when using a designated use code, as specified on the monthly summary pesticide use report form.

SECTION 6. Tennessee Code Annotated, Title 62, Chapter 21, is amended by adding the following as a new section to be designated as follows:

62-21-131.

Commercial pest control operators shall file the notifications and meet the applicable requirements of Title 43, Chapter 8, Part 3.

SECTION 7. This act shall take effect July 1, 2005, the public welfare requiring it.